

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

GENERAL SCIENTIFIC
CORPORATION d/b/a SURGITEL,

Case No. 2:20-cv-13244

Plaintiff,

Honorable Gershwin A. Drain

v.

Magistrate Judge R. Steven Whalen

QUALITY ASPIRATORS, INC. d/b/a
Q-OPTICS,

**JOINT STIPULATION TO
TRANSFER VENUE TO THE
NORTHERN DISTRICT OF TEXAS**

Defendant.

**JOINT STIPULATION TO TRANSFER VENUE TO THE NORTHERN
DISTRICT OF TEXAS**

Pursuant to Local Rule 7.1(a)(1), Plaintiff General Scientific Corporation d/b/a SurgiTel (“SurgiTel”) and Defendant Quality Aspirators, Inc. d/b/a Q-Optics (“Q-Optics”) jointly seek a Stipulated Order under 28 U.S.C. § 1404(a), transferring this action to the United States District Court for the Northern District of Texas, Dallas Division. In support thereof, SurgiTel and Q-Optics state as follows:

WHEREAS, on December 10, 2020, SurgiTel filed this action in the Eastern District of Michigan against Q-Optics for alleged infringement of U.S. Patent No. 9,465,235 and U.S. Design Patent No. D746,354.

WHEREAS, on June 28, 2021, Q-Optics filed a Motion to Dismiss for Improper Venue under 28 U.S.C. § 1400(b), stating that Q-Optics is a corporation organized and existing under the laws of the State of Texas, that maintains its

principal place of business at 1419 Godwin Lane, Duncanville, Texas 75116.

WHEREAS, this action could have been brought in the Northern District of Texas because “venue in a patent action is governed by 28 U.S.C. § 1400, which provides that any civil action for patent infringement may be brought (1) in the judicial district where the defendant resides, or (2) where the defendant has committed acts of infringement and has a regular and established place of business. Under § 1400, residency for domestic corporations ‘refers only to the state of incorporation.’” *House v. Gen. Elec. Co.*, No. 19-CV-10586, 2019 WL 12070341, at *2 (E.D. Mich. Dec. 11, 2019) (internal citations omitted).

WHEREAS, venue is proper in the Northern District of Texas because Q-Optics is incorporated in the state of Texas and resides in the Northern District of Texas.

WHEREAS, pursuant to 28 U.S.C. § 1404(a) the Court may transfer this action to any other district “where it might have been brought or to any district or division to which all parties have consented.”

WHEREAS, SurgiTel and Q-Optics have met and conferred and consent to the transfer of this action to the Northern District of Texas, Dallas Division.

NOW THEREFORE, THE PARTIES STIPULATE, BY AND THROUGH THEIR COUNSEL OF RECORD, AS FOLLOWS:

1. Upon this Court’s approval of the of the Joint Stipulation to Transfer Venue to the Northern District of Texas, this action shall be transferred to

the Northern District of Texas, Dallas Division pursuant to 28 U.S.C. § 1404(a).

2. SurgiTel and Q-Optics shall each bear their own costs, expenses, and attorneys' fees.
3. Q-Optics shall retain all rights to otherwise seek to dismiss this litigation, including but not limited to under Fed.R.Civ.P. 12(b)(6).

IT IS SO STIPULATED.

Respectfully submitted July 19, 2021.

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CERTIFICATE OF SERVICE

I hereby certify that, on July 19, 2021, I electronically served this Joint Stipulation to Transfer Venue to the Northern District of Texas and the accompanying Proposed Order on all counsel of record.

/s/J. Michael Huget

J. Michael Huget (P39150)

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QUALITY ASPIRATORS, INC. d/b/a
Q-OPTICS,

Defendant.

**ORDER GRANTING JOINT STIPULATION TO TRANSFER VENUE TO
THE NORTHERN DISTRICT OF TEXAS**

Having fully considered the parties' Joint Stipulation to Transfer Venue to the Northern District of Texas, the Court GRANTS the stipulation in its entirety.

IT IS THEREFORE ORDERED THAT:

1. Pursuant to 28 U.S.C. § 1404(a), this action shall be and hereby is transferred to the Northern District of Texas, Dallas Division.
2. Q-Optics' Rule 12(b)(3) motion to dismiss, filed on June 28, 2021 is DENIED as moot.
3. The Clerk of this Court shall serve this order on the parties and send a copy to the Northern District of Texas, Dallas Division. The Clerk of this Court shall take any other measures necessary to effectuate transfer of this action to the Northern District of Texas, Dallas Division.

4. SurgiTel and Q-Optics shall each bear their own costs, expenses, and attorneys' fees.

Dated: October 13, 2021

s/Gershwin A. Drain
Hon. Gershwin A. Drain
United States District Court